REMARKS

In the Office Action[1], the Examiner took the following actions:

> rejected claims 1-20 under 35 U.S.C. § 112, second paragraph, as being indefinite;
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> rejected claims 1, 3-7, 9-12, 15, and 17-20 under 35 U.S.C. § 103(a) as being unpatentable over "A Distributed Resource Management Architecture that Supports Advance Reservations and Co-Allocation" by Foster et al. (*"Foster"*), in view of "Nimrod/G: An Architecture for a Resource Management and Scheduling System in a Global Computational Grid" by Buyya et al. ("*Buyya*"); and
>
> rejected claims 2, 8, 13, 14, and 16 under 35 U.S.C. § 103(a) as being unpatentable over *Foster*, in view of *Buyya*, and further in view of "Design and Evaluation of a Resource Selection Framework for Grid Applications" by Liu et al. (*"Liu"*).

By the present amendment Applicants cancel claims 2 and 8 without prejudice or disclaimer; amend claims 1, 3-7, 9-11, 13, and 15-19; and add new claims 21 and 22. Claims 1, 3-7, and 9-22 are now pending, and the rejections of claim 2 and 8 are rendered moot by the cancellation.

Initially, Applicants wish to thank the Examiner for granting the telephone interview on August 7, 2008 with Applicants' representative. Further, Applicants wish to thank the Examiner for acknowledging that the proposed claim amendments overcome the rejection under 35 U.S.C. § 112. Applicants amend the claims in view of the discussion with the Examiner. Applicants respectfully request the Examiner to reconsider the claims and, for the reasons stated below, withdraw all of the rejections.

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[1] The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

I. Rejection of Claims 1-20 under 35 U.S.C. §112, second paragraph

Applicants respectfully traverse the rejection of the claims under 35 U.S.C. § 112 and submit that the claims, as amended, fully meet the requirements of 35 U.S.C. §112, as agreed during the interview.

II. Rejection of Claims 1, 3-7, 9-12, 15, and 17-20 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 1, 3-7, 9-12, 15, and 17-20 under 35 U.S.C. § 103(a) under 35 U.S.C. § 103(a) as being unpatentable over *Foster* in view of *Buyya*. A *prima facie* case of obviousness has not been established.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. Such an analysis should be made explicit and cannot be premised upon mere conclusory statements. *See M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007).* "A conclusion of obviousness requires that the reference(s) relied upon be enabling in that it put the public in possession of the claimed invention." *M.P.E.P. § 2145.* Furthermore, "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" at the time the invention was made. *M.P.E.P. § 2143.01(III), internal citation omitted.* Moreover, "[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." *M.P.E.P. § 2141.02(I),* internal citations omitted (emphasis in original).

"[T]he framework for objective analysis for determining obviousness under 35 U.S.C. § 103(a) is stated in Graham v. John Deere Co., 383 U.S. 1, 148 U.S.P.Q 459 (1966) . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the difference between the claimed invention and the prior art." *M.P.E.P. § 2141(II).* Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." *M.P.E.P. § 2141(III).*

Independent claim 1 recites a method including, for example "sending the request to begin computing the first task to a second matched computational resource included in the list when the requested reservation fails, wherein the requested reservation fails when the identified computational resource is unavailable to begin computing the first task." The combination of *Foster* and *Buyya* does not teach or suggest at least these features of claim 1, and does not render claim 1 obvious.

In *Foster* a reservation agent may first "consider issues such as acceptable use and security policies, perhaps because data is proprietary. Then, the agent attempts to reserve both supercomputer nodes and network bandwidth between the supercomputer and the visualization engine. If both reservations succeed, the agent can proceed to discover and reserve a network link," (*Foster*, page 31, col. 1, lines 34-41). Thus, *Foster* reserves multiple computing nodes in advance and then attempts to reserve a network link. As was discussed during the telephonic interview, such a disclosure does not constitute "sending the request to begin computing the first task to a second matched computational resource included in the list when the requested reservation fails, wherein the requested reservation fails when the identified computational resource

is unavailable to begin computing the first task." Therefore, *Foster* does not teach or suggest the features of claim 1.

Further, *Buyya* does not overcome the deficiencies of *Foster*. *Buyya* presents only the available resources prior to sending the request so that "the user knows before the experiment is started whether the system can deliver the results and what the cost will be," (*Buyya*, page 4, col. 1, lines 2-4). Thus, *Buyya* also fails to teach or suggest, "sending the request to begin computing the first task to a second matched computational resource included in the list when the requested reservation fails, wherein the requested reservation fails when the identified computational resource is unavailable to begin computing the first task," as recited in claim 1.

Here, no *prima facie* case of obviousness has been established for at least the reason that, in view of the failure of *Foster* and *Buyya* to teach the claimed combination, as discussed above, the Office Action has not properly determined the scope and content of *Foster* and *Buyya* and has accordingly not properly ascertained the difference between *Foster* and *Buyya* and the subject matter of claim 1. Regarding the differences that have been cited, no reason has been provided as to why one of ordinary skill in the art, at the time the invention was made, would modify *Foster* and *Buyya*.

Thus, no *prima facie* case of obviousness has been established with respect to claim 1, and claim 1 is allowable.

Independent claims 7 and 15 while of different scope, recite features similar to those of claim 1 and are thus allowable over *Foster* and *Buyya* for at least reasons similar to those discussed above in regard to claim 1. Claims 3-6, 9-12, and 17-20

are also allowable at least due to their dependence from claims 1, 7, and 15, respectively.

Accordingly, for at least the above-noted reasons, Applicants request withdrawal of the 35 U.S.C. § 103(a) rejection of claims 1, 3-7, 9-12, 15, and 17-20.

III. Rejection of Claims 2, 8, 13, 14, and 16 under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 13, 14, and 16 under 35 U.S.C. § 103(a) as being unpatentable over *Foster* in view of *Buyya* and further in view of *Liu*. Claims 13-14 and 16 depend from claims 7 and 15, respectively, and include the features of claims 7 and 15. As discussed above, *Foster* and *Buyya* fail to render obvious claims 7 and 15. *Liu* fails to cure the deficiencies of *Foster* and *Buyya*, because *Liu* does not teach or suggest "sending the request to begin computing the first task to a third service corresponding to a second matched computational resource in the list when the requested reservation fails, wherein the requested reservation fails when the identified computational resource is unavailable to begin computing the first task," as recited in claim 7, and similar recitations in claim 15.

As noted above, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the claimed invention and the prior art. Accordingly, no reason has been clearly articulated as to why claims 13, 14, and 16 would have been obvious to one of ordinary skill in view of *Foster*, *Buyya*, and *Liu*. Therefore, a *prima facie* case of obviousness has not been established for claims 13, 14, and 16 for at least this reason.

Accordingly, Applicants request withdrawal of the 35 U.S.C. § 103(a) rejection of claims 13, 14, and 16.

CONCLUSION

In view of the foregoing, Applicants submit that the pending claims are neither anticipated nor rendered obvious in view of the cited references. Applicants therefore request the Examiner's reconsideration of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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